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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,259	03/26/2004	Enrique J. Klein	020460-000760US	8305
60168	7590	11/08/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW LLP AVANTEC VASCULAR CORPORATION (CLIENT # 20460) TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			STEWART, ALVIN J	
		ART UNIT		PAPER NUMBER
		3738		
DATE MAILED: 11/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,259	KLEIN, ENRIQUE J.	
	Examiner	Art Unit	
	Alvin J. Stewart	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 4,8,12 and 16 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 5-7, 9-11 and 13-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/28/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election of Species II in the reply filed on May 08, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 4, 8, 12 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 08, 2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 9-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jang US Patent 6,770,088 B1 in view of Richter US Patent 5,807,404.

Jang discloses a plurality of different embodiments having catheter/prosthesis assembly (see Fig. 11) comprising a delivery balloon (146), an expandable body (10, see Fig. 9B, 9C & 9D) having a first end (194), a second end (198), a plurality of interconnected cylindrical wall sections (86 & 24) and a plurality of S-shaped connectors (26).

Regarding the S-shaped connectors, the first and second ends of the connectors each emerge laterally from the wall section. Figs. 9B, 9C & 9D clearly disclose the connectors emerging from the lateral surface of each of the cylindrical wall sections. The Examiner

interpreted the lateral surface of the cylindrical wall sections as the wall created from the thickness of the stent sections (as shown in Fig. 9D). The independent claims do not have sufficient structural limitations in order to overcome the Examiner's interpretation. In order to overcome the rejection, the Applicant's representative has to add positive structure limitations showing that the two ends of the S-shaped connectors emerge angularly with respect to a longitudinal axis of the stent or the cylindrical wall sections. However, the embodiment of Figs. 9A-9D of the Jang reference does not disclose S-shaped connectors emerging laterally with respect to a longitudinal axis of the wall section.

The Jang reference and the Richter reference teach a stent having a plurality of connectors emerging laterally with respect to a longitudinal axis of a wall section (see Figs. 6A-7C of the Jang reference and Figs. 1-11 and col. 6, lines 57-60 of the Richter reference) for the purpose of increasing the flexibility of the connectors and in general of the stent.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the embodiment of the Jang reference with another embodiment in the Jang reference or with the s-shaped connector of the Richter reference in order to increase the flexibility of the connectors and in general of the stent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A. Stewart
ALVIN J. STEWART
PRIMARY EXAMINER
Art Unit 3738

June 05, 2006.